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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

In the Matter of)	Case No. 11-19871-B-7
)	
TODD ERIC MUMMA,)	Chapter 7
)	
)	TGM-1
Debtor.)	
)	Date: February 2, 2012
)	Time: 10:00 a.m.
)	Dept: B, Courtroom 12
)	The Honorable W. Richard Lee

**JULIE MUMMA'S MOTION TO COMPEL CHAPTER 7 TRUSTEE TO
ABANDON REAL AND PERSONAL PROPERTY FROM THE ESTATE**

JULIE MUMMA, by and through her attorney, respectfully
represents as follows:

1. Debtor filed a Voluntary Petition under Chapter 7 of the
Bankruptcy Code on August 31, 2011.

2. Peter Fear is the duly appointed, qualified and acting
trustee of the above referenced bankruptcy estate.

3. Julie Mumma is the estranged spouse of the Debtor and is
an interested party in this case.

4. The assets of the Chapter 7 estate include the following:

(1) Debtor's residence located at 10202 N. Quail Run Drive, Fresno,

1 CA, more particularly described as Lot 19 and 20 of Tract No. 3800,
2 in the City of Fresno, County of Fresno, State of California
3 according to the Map thereof recorded in Book 44, Pages 97 through
4 99, inclusive, Fresno County records ("Residence"); (2) Prudential
5 Life Insurance company Universal Life Policy ("Life Insurance
6 Policy").

7 5. According to Debtor's Schedule A, the Residence has a
8 value of \$510,000.00. A copy of the Schedule A filed by Debtor is
9 filed concurrently herewith and incorporated herein by reference as
10 **Exhibit A.**

11 6. The Residence is encumbered by a note secured by first
12 deed of trust held by SunTrust Mortgage, Inc. in the amount of
13 \$222,396.28 and a note secured by a second deed of trust held by
14 Bank of America Home Loans in the amount of \$247,779.70 for a total
15 encumbrance of \$470,175.98. See Debtor's Schedule D filed
16 concurrently herewith and incorporated herein by reference as
17 **Exhibit B.**

18 7. Proceeds from a sale of the Residence would not be
19 sufficient to (a) satisfy the liabilities encumbering the residence
20 (b) pay costs incurred by the sale of the residence, and (c) return
21 any money to the Chapter 7 estate based on the following
22 calculations:

23	Value of Real Property:	\$510,000.00
24	Secured Claims	\$470,175.98
25	Cost of Sale (8%)	\$ 40,800.00
26	Net Return to Estate:	(\$ 975.00)

27 8. Question 9 on Debtor's Schedule B, filed concurrently
28 herewith and incorporated herein by reference as **Exhibit C**, shows

1 the Debtor's life insurance policy has a cash value of \$5,920.00.
2 Debtor has exempted this policy as shown in Schedule C filed
3 concurrently herewith and incorporated herein by reference as
4 **Exhibit D.**

5 9. The continued meeting of creditors was concluded on
6 November 18, 2011, so the time to object to debtor's claims of
7 exemptions has expired.

8 10. 11 USC §544(b) provides that "on request of a party in
9 interest after notice and a hearing, court may order the Trustee to
10 abandon any property of the estate that is burdensome to the estate
11 or that is of inconsequential value and benefit to the estate."

12 11. The Chapter 7 Trustee's duty is to liquidate the estate
13 for the benefit of creditors and the Chapter 7 Trustee should not
14 administer property that is burdensome or of inconsequential value
15 to the estate because unsecured creditors will not benefit from such
16 actions by the Trustee. Furthermore, it is improper for a Chapter
17 7 Trustee to sell property of the estate (a) for the benefit of a
18 secured creditor when there is no appreciable benefit to the estate,
19 or (b) to pay himself when there would be no significant
20 distribution to unsecured creditors. See In re Tobin, 202 B.R. 339,
21 340 (Bankr. D RI 1996).

22 12. Julie Mumma believes that the residence is burdensome and
23 of inconsequential value to the Chapter 7 estate as a sale would
24 generate no funds for unsecured creditors. She also believes that
25 the life insurance policy is of inconsequential value to the estate
26 because it is fully exempt and the time for objecting to claims of
27 exemptions has run.

28 WHEREFORE, Julie Mumma prays as follows:

- 1 1. That her motion be granted.
- 2 2. That the Court enter an order compelling the Trustee to
- 3 abandon the real property and life insurance policy from Debtor's
- 4 Chapter 7 estate, and
- 5 3. For such other relief as is just and proper.

6 Dated: 12-15-11

7 /s/ TRUDI G. MANFREDO
8 Trudi G. Manfredo
9 Attorney for Julie Mumma

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